

SIKKIM

GOVERNMENT



GAZETTE

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GOVERNMENT OF SIKKIM

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Dated Gangtok, the 16th April, 1982.

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 7th day of April, 1982, is hereby published for general information.

**The Sikkim Motor Vehicles Taxation
Act, 1982 Act No. 5 of 1982**

THE SIKKIM MOTOR VEHICLES TAXATION ACT, 1982
(ACT No. 5 OF 1982).

An
Act

to provide for the imposition and levy of a tax on motor vehicles in Sikkim.

Be it enacted by the Legislature of Sikkim in the Thirty-third Year of the Republic of India as follows :—

Short title, extent
and commence-
ment.

1. (1) This Act may be called the Sikkim Motor Vehicles Taxation Act, 1982.
- (2) It extends to the whole of Sikkim.
- (3) It shall come into force on such date as the State Government may, by notification, appoint.

Definitions.

2. In this Act, unless the context otherwise requires—
 - (a) “motor vehicle” includes a vehicle, carriage or other means of conveyance propelled or which may be propelled, on a road by electrical or mechanical power either entirely or partially;
 - (b) “notification” means a notification published in the Official Gazette;
 - (c) “prescribed” means prescribed by rules made under this Act;
 - (d) “tax” means the tax imposed under this Act;
 - (e) “Taxation Officer” means an Officer authorised by the State Government to perform the duties and exercise the powers conferred upon such officer by this Act;
 - (f) “tractor” means a motor vehicle which is not itself constructed to carry any load (other than equipment used for the purpose of propulsion), and includes a motor vehicle used for towing disabled vehicles but does not include a road roller;
 - (g) Words and expressions used herein and not defined but defined in the Sikkim Motor Vehicles Act, 1957 shall have the meanings respectively assigned to them in that Act.

Appointment of
Taxation Officer.

3. The State Government may, by notification, appoint such persons as it may think fit to be Taxation Officers and may in such notification specify the areas within which such officers shall exercise the powers conferred and perform the duties imposed on them by or under this Act.

Imposition of
tax.

4. (1) A tax at the rate specified in the Schedule shall be imposed and levied on all motor vehicles used or kept for use in Sikkim.
Explanation.—For the purposes of this Act,—
 - (i) a person who keeps a motor vehicle of which the certificate of registration is current shall be deemed to keep such vehicle for use; and
 - (ii) “use” included letting on hire otherwise than on a hire purchase.

- (2) The tax imposed under sub-section (1) shall be payable for the year in advance by the person by whom a motor vehicle is used or kept for use :

Provided that Taxation Officer may allow payment of the tax for one or more quarterly periods at the rate, for each such quarterly periods, of one quarter of the tax payable for the year :

Provided further that in the case of a motor vehicle registered outside Sikkim whether temporarily under section 25 of the Motor Vehicles Act, 1939 or otherwise, which is used or kept for use in Sikkim temporarily, the tax shall be payable for every week or part thereof, for which the motor vehicle is so used or kept for use in Sikkim, at the rate of one-fifty second part of the tax payable for the year, per week.

4 of 1939.

- (3) If the Taxation Officer is satisfied that the certificate of registration and the token delivered under section 10 on payment of the tax for the year in respect of a motor vehicle has been surrendered or that a motor vehicle has not been used or kept for use for any complete calendar month in the year, he shall, on application made under section 6 refund or remit in respect of the said vehicle one-twelfth of the tax payable for the year for every complete calendar month for which the said vehicle has not been used or kept for use :

Provided that where a motor vehicle, other than a motor vehicle for the transport of goods or plying for hire for the carriage of passengers, has not been used for any period in Sikkim by reason of its being removed and kept outside Sikkim during such period, the Taxation Officer shall not refund or remit in respect of the said vehicle any portion of the tax for the quarterly period during which the said vehicle is so removed.

- (4) If any person fails to deliver a declaration or additional declaration in accordance with the provisions of section 7, the Taxation Officer may after making such inquiry as he thinks fit and after giving an opportunity to such person to be heard, require him to pay any tax or additional tax which the Taxation Officer may find such person liable to pay under the provisions of this Act and may also impose on him a penalty which may extend to half the amount of the tax to which he is found liable.

Report of registered motor vehicles brought into Sikkim from outside.

5. Every person who brings into Sikkim any motor vehicle registered outside Sikkim whether temporarily under section 25 of the Motor Vehicles Act, 1939 or otherwise, and uses or keeps for use such vehicle in Sikkim shall submit to the Taxation Officer a report thereof within such time, in such form and containing such particulars as may be specified by the State Government by a notification.

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Manner of claiming refund or remission.

6. A person claiming refund or remission of tax under sub-section (3) of section 4 shall, within such time as may be specified by the State Government by a notification, make to the Taxation Officer an application in this behalf in writing which shall be accompanied by such documents as may be specified in such notification.

Declaration by person keeping or using a motor vehicle.

7. (1) Every person by whom a motor vehicle is used or kept for use shall fill up and sign a declaration in such form stating truly therein such particulars and shall deliver the declaration, as so filled up and signed, to the Taxation Officer within such time as may be specified by the State Government by a notification and shall pay to the Taxation Officer the tax which he appears by such declaration to be liable to pay in respect of such vehicle.
- (2) Where a motor vehicle is altered so as to render the person by whom such vehicle is used or kept for use liable to the payment of an additional tax under section 8, such person shall fill up and sign an additional declaration in such form showing the nature of the alteration made and containing such particulars and shall deliver such additional declaration, as so filled up and signed, to the Taxation Officer within such time as may be specified by the State Government by a notification and shall pay to the Taxation Officer the additional tax payable under section 8 which he appears by such additional declaration to be liable to pay in respect of such vehicle.
- (3) Every person who owns any motor vehicle which is let for hire otherwise than on a hire-purchase agreement shall, for the purposes of this Act, be deemed to be the person who keeps such vehicle for use.

Payment of additional tax.

8. Where any motor vehicle in respect of which the tax has been paid is altered in such a manner as to cause the vehicle to become a vehicle in respect of which a higher rate of tax is payable, the person by whom such vehicle is used or kept for use shall be liable to pay an additional tax of a sum which is equal to the difference between the tax already paid in respect of such vehicle and the tax which is payable in respect of such vehicle after its being so altered, and the registering authority shall not grant a fresh certificate of registration or renew any certificate of registration in respect of such vehicle as so altered until such amount of tax has been paid.

Receipt for tax.

9. The Taxation Officer shall grant and deliver to every person, who pays to him the tax or additional tax in respect of any motor vehicle a receipt in which shall be specified the particulars of the tax paid and such other particulars as may be prescribed.

Token to be exhibited on motor vehicles.

10. (1) The Taxation Officer shall, at the time of granting a receipt for the tax, deliver to the person paying the tax a token in such form and containing such particulars as may be prescribed.
- (2) Every person to whom such token is delivered shall cause it to be exhibited in the prescribed manner on the vehicle in respect of which the tax is paid.

Appeal.

11. (1) Any person aggrieved by any order made by a Taxation Officer under this Act may prefer appeal against that order to such appellate authority appointed by the State Government in this behalf, in such manner, within such time and on payment of such fees as may be prescribed :

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within that period.

- (2) Any such appeal shall be heard and decided by the appellate authority in such manner as may be prescribed and the decision of the appellate authority on such appeal shall be final:

Provided that no appeal shall be decided without giving the appellant an opportunity of being heard.

Power to check
and seize motor
vehicles.

12. (1) Any Police Officer in uniform or other officer of the State Government not below such rank as may be specified by the State Government by a notification, may—

- (a) check any motor vehicle either in any garage after the sunset or before the sun-rise or stop and check any motor vehicle plying on the road for the purpose of satisfying himself that the tax payable under this Act in respect of such vehicle has been paid; and
- (b) seize and detain the vehicle if he is authorised by the State Government in this behalf and if he has reasons to believe that any motor vehicle has been or is being used or kept for use in contravention of the provisions of sections 5, 7 and 8 may take or cause to be taken such steps as he may consider necessary for the temporary safe custody of the vehicle so seized and detained unless the owner or the person in charge of the vehicle executes a bond for the production thereof before a court when so required.

- (2) Any motor vehicle seized and detained under clause (b) of sub-section (1) shall be produced before the court within twenty-four hours of such seizure and the court shall thereupon pass such orders as it may think fit for the disposal of the vehicle.

- (3) Where any bond is executed under clause (b) of sub-section (1) for the production of any motor vehicle before the court, the provisions of section 514 of the Code of Criminal Procedure, 1898 shall, as far as may be, apply to such bond.

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Penalties for cer-
tain offences.

13. Whoever—

- (a) uses or keeps for use a motor vehicle without having paid the tax or additional tax in respect of such vehicle; or
- (b) delivers a declaration or additional declaration wherein the particulars required by or under this Act are not fully and truly stated; or
- (c) obstructs any officer referred to in section 12 in the exercise of his powers under that section,

shall be punishable with fine which may extend to one and half times, and, in the event of such person having been previously convicted of an offence under this Act or any rule made thereunder, with fine which may extend to twice the amount of the tax payable for the year for the motor vehicle in respect of which the offence is committed and the amount of any tax due shall also be recovered as if it were a fine.

Provided further that the State Government may, where it is not possible to hold elections for the constitution of new Gram panchayat immediately after the expiry of the term, by notification, extend the term for a period not exceeding six months at a time subject to a maximum period of one year or appoint any authority, person or persons to exercise and perform, subject to such conditions as may be specified in the order, the powers and functions of the Gram panchayat, under this Act until the constitution of new Gram panchayat.

- (2) When a new Gram panchayat is thus duly constituted the old Gram panchayat shall stand dissolved.

Disqualification
of members of
Gram Panchayat.

9. (1) A person shall not be qualified to be a member of a Gram panchayat, if—
- (a) he is a member of a municipal corporation under the provisions of the Gangtok Municipal Corporation Act, 1975, or of a Bazar Committee constituted under the Sikkim Bazar Committees Act, 1969;
 - (b) holds any office of profit under the State Government or the Central Government or a local authority or a co-operative society or a Government company or corporation owned or controlled by the Central or a State Government; or
 - (c) has been dismissed from the service of a State Government or the Central Government or a local authority or a co-operative society or a Government Company or Corporation owned or controlled by the Central or a State Government for misconduct; or
 - (d) is of unsound mind and stands so declared by a competent Court; or
 - (e) is an undischarged insolvent; or
 - (f) has been convicted by a Court of an offence involving moral turpitude and sentenced to imprisonment for a term exceeding six months; or
 - (g) is convicted of an election offence; or
 - (h) is suffering from a variety of leprosy which is infectious; or
 - (i) has not paid any arrears in respect of any tax or rate or fee payable to a Gram Panchayat or Zilla Panchayat or the State Government :

4 of 1975

Provided that the disqualification under this clause shall cease upon payment of the tax or rate or fee; or

- (j) has directly or indirectly by himself or by his partner or employer or an employee, any share or interest in any contract with, by or on behalf of Zilla Panchayat or a Gram Panchayat within the district :

Provided that a person shall not be deemed to have incurred disqualification by reason of his having a share or interest in any public company or registered co-operative society which contracts with or is employed by a Gram Panchayat or the Zilla Panchayat of the District.

- (2) Any disqualification under clauses (c), (e), (f) or (g) may be removed by the State Government by order in writing.

Sabhapati and Up-
Sabhapati.

10. (1) Every Gram Panchayat shall, at its first meeting at which a quorum is present, elect in the prescribed manner, one of its members to be the Sabhapati and another member to be the Up-Sabhapati of the Gram Panchayat.

- (2) The Sabhapati and Up-Sabhapati shall, subject to the provisions of section 20 and to their continuing as members, hold office for a period of five years:

Provided that a Sabhapati or an Up-Sabhapati shall continue to hold office after the expiry of the said period until a new Sabhapati or Up-Sabhapati is elected and assumes office or until an authority, or a person or persons is or are appointed under the second proviso to subsection (1) of section 8.

- (3) When—

(a) the office of the Sabhapati falls vacant by reason of death, resignation, removal or otherwise; or

(b) the Sabhapati is, by reason of leave, illness or other cause, temporarily unable to act,

the Up-Sabhapati shall exercise the powers, perform the functions and discharge the duties of the Sabhapati until a new Sabhapati is elected and assumes office or until the Sabhapati resumes his duties, as the case may be.

- (4) When—

(a) the office of the Up-Sabhapati falls vacant by reason of death, resignation, removal or otherwise; or

(b) the Up-Sabhapati is, by reason of leave, illness or other cause, temporarily unable to act, the Sabhapati shall exercise the powers, perform the functions and discharge the duties of the Up-Sabhapati until a new Up-Sabhapati is elected and assumes office or until the Up-Sabhapati resumes his duties, as the case may be.

- (5) When the office of the Sabhapati and the Up-Sabhapati are both vacant, or the Sabhapati and the Up-Sabhapati are temporarily unable to act, the prescribed authority, may appoint a Sabhapati and an Up-Sabhapati from among the members of the Gram Panchayat to act as such until a Sabhapati and an Up-Sabhapati are elected and assume office.

Publication of
notification of
election or nomi-
nation, etc.

11. Every election on nomination of a Sabhapati, Up-Sabhapati, Sachiva and members of Gram Panchayat, as the case may be, shall be published by the State Government in the Official Gazette and such persons shall enter upon their respective offices from the date of such publication:

Provided that if no such publication has been made the Sabhapati, Up-Sabhapati, Sachiva and members shall be deemed to have entered upon their respective offices from the date of declaration of result of their election or nomination, as the case may be.

First meeting of
Gram panchayat.

12. (1) Notwithstanding of any vacancy in the membership of the Gram Panchayat, the prescribed authority shall, immediately after but before the expiration of thirty days from the date of publication of the notification under section 11, call a meeting of the Gram Panchayat members (which meeting shall be called the first meeting of the Gram Panchayat) for electing the Sabhapati, Up-Sabhapati and the Sachiva of the Gram Panchayat from amongst themselves.

Meeting of Gram
Panchayats.

- (2) The meeting to be held under sub-section (1) shall be convened by the prescribed authority in the prescribed manner.
13. (1) Every Gram Panchayat shall hold a meeting for transaction of its business at least once in every month at the office of the Gram Panchayat or at such place within the local limits of the Gram Panchayat concerned and at such time as the Sabhapati of the Gram Panchayat may decide.
- (2) The Sabhapati may, whenever, he thinks fit, in the public interest or shall upon receipt of a written requisition of not less than one half of the total number of members of the Gram Panchayat or if directed by the Secretary of the Rural Development Department or the Deputy Development Officer-cum-Planning Officer or the District Collector of the concerned district, call a special meeting of the Gram Panchayat within a period of ten days from the date of receipt of the requisition or direction, as the case may be :

Provided that if the Sabhapati fails to call such special meeting within the specified period from the date of receipt of the requisition or direction, as the case may be, the Secretary of the Rural Development Department or Deputy Development Officer-cum-Planning Officer or the District Collector of the concerned district may direct the Sachiva or any member of the Gram Panchayat to call such meeting at such time and at such place within the local limits of the Gram Panchayat concerned as the Sachiva or the member directed to call the meeting may decide.

- (3) Two-third of the total number of members constituting the Gram Panchayat shall form a quorum for a meeting of the Gram Panchayat :

Provided that no quorum shall be necessary for an adjourned meeting.

- (4) The Sabhapati or in his absence, the Up-Sabhapati shall preside at the meeting of the Gram Panchayat and in the absence of both, the members present shall elect one from amongst themselves to preside at the meeting.
- (5) All questions coming before a Gram Panchayat shall, unless otherwise specifically provided under this Act be decided by a majority of votes of the members present and voting :

Provided that in case of equality of votes the person presiding shall have a second or a casting vote.

- (6) No member shall vote on, and take part in the discussions of, any question coming up for consideration at a meeting of a Gram Panchayat if the question is one in which he has any direct or indirect pecuniary interest other than an interest as a member of public.
- (7) If it appears to any member present at a meeting that the person presiding at the meeting has any such pecuniary interest in any matter before the meeting for discussion or any question coming up for consideration as if referred to in sub-section (6) and a motion brought by him to that effect is carried, such a person shall not preside at such meeting and shall not take part therein, and for the purpose of sub-section (4) such person shall be deemed to be absent during the discussions or consideration of the particular matter.

Consideration of
question disposed
of by Gram
Panchayat.

14. No matter once finally disposed of by the Gram Panchayat shall be reconsidered by it within the period of six months unless the recorded consent of not less than one-half of its total number of members has been obtained thereto.

List of business to be transacted at a meeting.

15. (1) A list of the business to be transacted at every meeting of a Gram Panchayat except at an adjourned meeting, shall be sent to each member of the Gram Panchayat at least seven days before the time fixed for such meeting and no business shall be brought before or transacted at any meeting, other than the business for which notice has been so given except with the approval of the majority of the members present at such meeting :

Provided that non receipt of a notice by a member shall not vitiate the proceedings of the meeting :

Provided further that if the Sabhapati thinks that a situation has arisen for which an emergent meeting of the Gram Panchayat should be called, he may call such meeting at such time and at such place within the local limits of the Gram Panchayat concerned after giving three day's notice to the members :

Provided also that not more than one matter shall be included in the list of business to be transacted at such meeting.

- (2) The business of the Gram Panchayat shall be transacted in the language commonly spoken and understood by the members.
- (3) Minutes of the proceedings at each meeting of the Gram Panchayat shall be recorded in a book to be kept for this purpose and shall be read and signed by the Sabhapati of the meeting before the meeting disperses.
- (4) The Sachiva of the Gram Panchayat shall, within a week after a meeting of the Gram Panchayat is held, send copies of minutes of every such meeting to the Secretary of the Rural Development Department and the Deputy Development Officer-cum-Planning Officer of the concerned district.

Powers and duties of Sabhapati.

16. The Sabhapati shall—

- (a) regulate the meetings of the Gram Panchayat;
- (b) be responsible for the maintenance of records and registers of the Gram Panchayat;
- (c) exercise supervision and control over the acts done and action taken by the members of the Gram Panchayat and such officers and other employees whose services may be placed at the disposal of the Gram Panchayat by the State Government;
- (d) operate jointly with the Sachiva of the Gram Panchayat the fund of the Gram Panchayat including authorisation of payment, issue of cheques and refunds;
- (e) issue receipts under his signature for money received by him on behalf of the Gram Panchayat;
- (f) cause preparation of all statements and reports required by or under this act;
- (g) exercise such other powers, perform such other functions and discharge such other duties as the Gram Panchayat may, by general or special resolution, direct or as the State Government may, by rules made in this behalf, prescribe.

Powers and duties of Up-Sabhapati.

The Up-Sabhapati shall —

- (a) in the absence of the Sabhapati regulate the meetings of the Gram Panchayat;
- (b) exercise such of the powers and perform such other functions and discharge such of the duties of the Sabhapati as the Sabhapati may, from time to time, delegate to him by order in writing :

Provided that the Sabhapati may at any time withdraw all or any of the powers, functions and duties so delegated to the Up-Sabhapati;

- (c) during the absence of the Sabhapati, exercise all the powers, perform all the functions and discharge all the duties of the Sabhapati.

Right of individual member.

18. The member of a Gram Panchayat at any of the meeting may move resolution and put questions to the Sabhapati or Up-Sabhapati or the Sachiva, as the case may be, on matters connected with the administration of the Gram Panchayat or execution of any work or scheme undertaken by or entrusted to such Gram Panchayat.

Resignation of Sabhapati or Up-Sabhapati or member.

19. (1) A Sabhapati or an Up-Sabhapati or a member of a Gram Panchayat may resign his office by notifying in writing his intention to do so to the prescribed authority and on such resignation being accepted the Sabhapati or the Up-Sabhapati or the member shall vacate his office and the casual vacancy shall be deemed to have occurred in such office :

Provided that a person tendering resignation may withdraw his resignation before it is accepted by the prescribed authority.

- (2) When the resignation is accepted under sub-section (1), the prescribed authority shall communicate it to the members of the Gram Panchayat within a period of thirty days of such acceptance.

Removal of Sabhapati and Up-Sabhapati.

20. A Sabhapati or an Up-Sabhapati of a Gram Panchayat may, at any time, be removed from office by a resolution of the Gram Panchayat carried by the majority of the members of the Gram Panchayat present at a meeting specially convened for the purpose. Notice of such meeting shall be given to the prescribed authority :

Provided that at any such meeting while any resolution for the removal of—

- (i) the Sabhapati from his office is under consideration; or:
- (ii) the Up-Sabhapati from his office is under consideration,

he shall not, though present, preside at such meeting and the provisions of sub-section (4) of section 13 shall apply in relation to any such meeting as they apply in relation to a meeting from which the Sabhapati or, as the case may be, the Up-Sabhapati, is absent.

Filling of casual vacancy in the office of Sabhapati or Up-Sabhapati.

21. (1) In the event of removal of a Sabhapati or an Up-Sabhapati under section 20 or when a vacancy occurs in the office of a Sabhapati or an Up-Sabhapati by resignation, death or otherwise, the Gram Panchayat shall elect another Sabhapati or Up-Sabhapati. The person so elected shall take office forthwith and shall hold such office for the unexpired term of office of his predecessor.
- (2) No person who has been removed from office under section 20 shall be eligible for re-election to the vacancy so caused.

Removal of member—Gram Panchayat

22. (1) The prescribed authority may, after giving an opportunity, to a member of a Gram Panchayat to show cause against the action proposed to be taken against him, by order remove him from office if—
- (a) after his election he is convicted by a criminal court of an offence involving moral turpitude and punishable with imprisonment for a period of more than six months; or
 - (b) he was disqualified to be a member of the Gram Panchayat at the time of his election; or
 - (c) he incurs any of the disqualifications mentioned in clauses (b), (c), (d), (e) (f), (g), (h), (i) or (j) of section 9, after his election as a member of the Gram Panchayat; or
 - (d) he is absent from three consecutive meetings of the Gram Panchayat without the leave of the Gram Panchayat.
- (2) Any member of a Gram Panchayat who is removed from his office by the prescribed authority under sub-section (1) may, within a period of thirty days from the date of the order, appeal to such authority as the State Government may appoint in this behalf, and, there upon, the authority so appointed may stay the operation of the order till the disposal of the appeal and may, after giving notice of the appeal to the prescribed authority, and after giving the appellant an opportunity of being heard, modify, set aside or confirm the order.
- (3) The order passed by such authority on such appeal shall be final.

Filling of casual vacancy in place of member of Gram Panchayat.

23. (1) If the office of a member of a Gram Panchayat becomes vacant by reason of his death, resignation, removal or otherwise, such vacancy shall be filled in by election of another person under this Act. The person elected shall take office forthwith and shall hold such office for the un-expired term of office of his predecessor:

Provided that no election for filling in of a casual vacancy shall be held if the vacancy occurs within a period of three months preceding the date on which the term of office of the person concerned expires.

- (2) No person who has been removed from his office under section 22, shall be eligible for re-election to the vacancy so caused.

Sachiva of Gram Panchayat

24. (1) Every Gram Panchayat shall, at its first meeting at which a quorum is present, elect one of its members to be Sachiva of the Gram Panchayat :

Provided that no member who is not able to read or write any of the official languages of the State shall be qualified to be elected as a Sachiva :

Provided further that where no such person as referred to in the first proviso is available, the Gram Panchayat may appoint any person including persons in government service with prior approval of the State Government and such person may be paid such honorarium as the State Government may determine.

- (2) The Sachiva of the Gram Panchayat so elected shall assist the Sabhapati or the Up-Sabhapati, as the case may be, of the Gram Panchayat in due maintenance of the Gram Panchayat office and for proper organisation and execution of rural development schemes and shall be directly answerable to the members of the Gram Panchayat.

- (3) The Sachiva shall be in charge of office of the Gram Panchayat and shall exercise such powers and perform such other functions and discharge such other duties as the Gram Panchayat may, by general or special resolution, direct or the State Government may, by rules made in this behalf, prescribe.
- (4) The term of office of the Sachiva shall, subject to the provisions section 26, be co-terminus with the term of the Gram Panchayat.
- Resignation of Sachiva. 25. A Sachiva of a Gram Panchayat may resign his office by notifying in writing his intention to do so to the prescribed authority and on such resignation being accepted the Sachiva shall vacate his office and the casual vacancy shall be deemed to have occurred in such office:
- Provided that a person tendering resignation may withdraw his resignation before it is accepted.
- (2) When the resignation is accepted under sub-section (1), the prescribed authority shall communicate it to the members of the Gram Panchayat within a period of thirty days of such acceptance.
- Removal of Sachiva. 26. (1) A Sachiva may, at any time, be removed from office by a resolution of the Gram Panchayat carried by the majority of the members of the Gram Panchayat present at a meeting specially convened for the purpose. Notice of such meeting shall be given to the prescribed authority.
- (2) In the event of removal of a Sachiva under sub-section (1) or when a vacancy occurs in the office of a Sachiva by resignation, death or otherwise, the Gram Panchayat shall elect one of its members to be the Sachiva. The person so elected shall take office forthwith and shall hold such office for the un-expired term of office of his predecessor.
- (3) No person who has been removed from his office under sub-section (1) shall be eligible for re-election to the vacancy so caused.

CHAPTER III

Duties of Gram Panchayat

- Obligatory duties of Gram Panchayat. 27. Subject to any general or special direction of the State Government the duties of a Gram Panchayat shall be to provide within the area under its jurisdiction for —
- (a) sanitation, conservancy and drainage and the prevention of public nuisance;
 - (b) curative and preventive measures in respect of any infectious disease;
 - (c) supply of drinking water and the cleaning and disinfecting the sources of supply and storage of water;
 - (d) maintenance, repair and construction of village roads and protection thereof;
 - (e) the removal of encroachments of village roads or public places;
 - (f) the management of common grazing grounds, burning places and public graveyards;

- (g) the supply of any local information which the District Collector or Deputy Development Officer-cum-Planning Officer or the Zilla Panchayat, within the local limits of whose jurisdiction the Gram Panchayat is situate, may require;
- (h) organising voluntary labour for community work and works for the upliftment of its areas;
- (i) control and administration of the Gram Panchayat Fund established under this Act;
- (j) the imposition, assessment and collection of taxes, fees or rates leviable under this Act;
- (k) construction and maintenance of dharmasalas;
- (l) regulating places for the disposal of dead bodies and carcasses and other offensive matters;
- (m) assisting the development of agriculture, forestry, animal husbandry, poultry, fisheries, village and cottage industries and co-operative;
- (n) registering births, deaths and marriages and annually submitting such records to the Zilla Panchayat;
- (o) maintenance of such records relating to cattle census, population census, crop census and census of unemployed persons and such other statistics as may be required and annually submitting such records to the Zilla Panchayat;
- (p) regulating inflow of animals within the area and their transfer;
- (q) destruction and disposal of ownerless and rabid dogs and disposal of unclaimed animals;
- (r) maintenance, upkeep and supervision of any building or other property which may be entrusted to it by the State Government for management;
- (s) assisting the Zilla Panchayat in preparing development plan of its area;
- (t) rendering assistance in extinguishing fire and protecting life and property when fire occurs;
- (u) any other local work or service of public utility which is likely to promote the health, comfort, convenience or material prosperity of the public not otherwise provided for in this Act;
- (v) such other duties as may be entrusted to it by the State Government from time to time.

**Other duties of
Gram Panchayat**

28. (1) A Gram Panchayat shall also perform such other functions as the State Government may assign to it in respect of :—
- (a) primary, social, technical or vocational education;
 - (b) rural dispensaries, health centres, maternity and child welfare centres;
 - (c) minor irrigation;
 - (d) grow more food campaign;
 - (e) care of the infirm and destitute;
 - (f) rehabilitation of displaced persons;
 - (g) improved breeding of cattle, medical treatment of cattle and prevention of cattle disease;

- (h) its acting as a channel through which Government assistance should reach the residents of the Gram;
 - (i) bringing private waste land under cultivation;
 - (j) promotion of plantations in the gram;
 - (k) arranging for cultivation of land lying fallow;
 - (l) arranging for co-operative management of resources of the Gram;
 - (m) implementation of such schemes as may be formulated or performance of such acts as may be entrusted to it by the State Government;
 - (n) field publicity of matters connected with development works and other welfare measures undertaken by the State Government;
 - (o) regulation of fairs, melas, hats and exhibition of local produce and products of local handicrafts and home industries;
 - (p) assisting and advising the residents of the Gram in the matter of obtaining state loan and its distribution and repayment;
 - (q) assisting in the implementation of land reform measure in its area;
 - (r) the promotion and encouragement of education including adult education;
 - (s) such other functions which the State Government may, from time to time, by order in writing entrust to such Gram Panchayat which in its opinion to promote directly or indirectly the welfare of the public.
- (2) If the State Government is of opinion that a Gram Panchayat has persistently made default in the performances of any of the functions assigned to it under sub-section (1), the State Government may, after recording its reasons, withdraw such functions from such Gram Panchayat.
- (3) Where the State Government assigns any functions to a Gram Panchayat under sub-section (1), it shall place such funds at the disposal of the Gram Panchayat as may be required for the due performance of such function.

CHAPTER IV

Property and Fund

Property and
Fund of Gram
Panchayat.

29. All property within the local limits of the jurisdiction of a Gram Panchayat other than property maintained by the Central or the State Government or a local authority or any other Gram Panchayat shall vest in and belong to the Gram Panchayat and shall with all other property of whatsoever nature or kind which may become vested in the Gram Panchayat, be under its direction, management and control.

Allocation of
properties to
Gram Panchayat

30. (1) The State Government may allocate to a Gram Panchayat any public property situated within its local jurisdiction, and thereupon such property shall vest in and come under the control of the Gram Panchayat.
- (2) No property vested in or belonging to a Gram Panchayat shall be transferred by way of sale, gift, mortgage, exchange or lease except with the previous sanction of the State Government.

- (3) Where the State Government is of opinion that any property vested in or belonging to a Gram Panchayat is required for the purpose of any national or State development plan or for any other public purpose, the State Government may resume such property, and upon such resumption, the property shall cease to vest in the Gram Panchayat and shall re-vest in the State Government.
- (4) No compensation other than the amount paid by the Gram Panchayat for such transfer and the market value of any building or works erected or executed on such property by the Gram Panchayat at the time of resumption shall be payable. Any sum so received shall be credited to the Gram Panchayat Fund.

Acquisition of
land for Gram
Panchayat.

31. (1) Where a Gram Panchayat require land for carrying out any of the purposes of this Act, it may negotiate with the person or persons having interest in the said land, and if it fails to reach an agreement, it may make an application to the District Collector for the acquisition of the land, who may, if he is satisfied that the land is required for a public purpose, take steps to acquire the land under the provisions of the Sikkim Land (Requisition and Acquisition) Act, 1977 and such Land shall, on acquisition, vest in the Gram Panchayat.

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Panchayat Fund

32. (1) For every Gram Panchayat there shall be constituted a Gram Panchayat Fund bearing the name of Gram Panchayat and there shall be placed to the credit thereof—
- (a) contributions and grants, if any, made by the Central or the State Government;
 - (b) contributions and grants, if any, made by a Zilla Panchayat or any other local authority;
 - (c) loans, if any, granted by the Central Government or the State Government;
 - (d) all receipts on accounts of taxes, rates and fees levied by the Gram Panchayat;
 - (e) all sums received by way of gift or contribution;
 - (f) all other sums received by or on behalf of the Gram Panchayat;
 - (g) such percentage of the land revenue collected by it as may be determined by the State Government.
- (2) Every Gram Panchayat shall set apart and apply annually such sum as may be required to meet the cost of its administration including allowances payable to the members.
- (3) Every Gram Panchayat shall have the power to spend such sums as the State Government may, by order, specify, for carrying out the purposes of this Act.
- (4) The Gram Panchayat Fund shall be vested in the Gram Panchayat and the balance to the credit of the Fund shall be kept in such custody as the State Government may direct.
- (5) Subject to such general control as the Gram Panchayat may exercise from time to time, all orders and cheques for payment from the Gram Panchayat Fund shall be signed by the Sabhapati or in his absence by the Up-Sabhapati.

Levy of taxes, 33.
rates and fees.

Subject to the rates which may be fixed by the State Government a Gram Panchayat, may levy the following taxes, rates, and fees namely—

- (a) a tax on fairs, melas, hats and other entertainments;
- (b) a general sanitary tax for the construction or maintenance or both the construction and maintenance of public latrines and for the removal and disposal of refuse;
- (c) a water rate where arrangements for the supply of water for drinking, irrigation or any other purpose are made;
- (d) a fee for temporary erection on, or putting up projections over, or temporary occupation of, any village road or place;
- (e) a fee on private latrines, premises or compounds cleaned by the Gram Panchayat agency;
- (f) a fee for grazing cattle on grazing lands vesting in a Gram Panchayat;
- (g) a fee on the registration of animals sold in any market or place belonging to or under the control of the Gram Panchayat;
- (h) a market fee on persons exposing goods for sale in any market or on any place or any building or structure therein belonging to or under the control of the Gram Panchayat;
- (i) a fee for the use of dharmasalas and encamping grounds;
- (j) a fee for drainage where system of drainage has been introduced by the Gram Panchayat;
- (k) a temporary tax for special works of public utility;
- (l) a tax on houses.

- (2) The Gram Panchayat shall not levy taxes, rates or fees referred to in sub-section (1) if such taxes, rates or fees have already been levied by any other authority under any law for the time being in force or by any other local authority.

Power of State
Government to
regulate taxes,
rates and fees.

34. (1) The State Government may, in the manner specified in the notification regulate the imposition, assessment and collection of taxes, rates and fees under section 33.
- (2) Subject to the provisions of this Act or rules made thereunder, no person shall object in respect of his liability to any assessment made or tax imposed under this Act.

Appeal against
taxation, fees and
rates.

35. An appeal against the levy of any tax, rate or fee under section 33 may be preferred to the prescribed authority in such manner and within such time as may be prescribed and the decision of such authority shall be final.

Recovery of
arrears.

36. Any arrear of tax, rate or fee levied under section 33 shall be recoverable as arrears of land revenue or public demand or if the Gram Panchayat passes a resolution to that effect and communicates it to the District Collector.

Action by Dis-
trict Collector.

37. (1) The District Collector, on receipt of such communication of the sum recoverable under section 36 and on being satisfied with the demand, shall proceed to recover it.
- (2) Any sum so recovered shall be sent to the gram Panchayat and shall be credited to the Gram Panchayat Fund.

- Power of State Government in regard to relief in taxes, rates or fees. 38. (1) If on a complaint made to it or otherwise it appears to the State Government that any tax rate or fee levied by a Gram Panchayat is excessive, it may, after calling for a report from the Gram Panchayat in this regard, abolish, suspend or reduce the amount of any such tax, rate or fee.
- (2) The State Government may, on its own motion or otherwise after giving the gram Panchayat an opportunity of expressing its view in the matter, by order, exempt from the payment of any tax in whole or in part –
- (a) any person or class of persons; or
- (b) any property or description of properties, subject to such conditions as may be specified in such order.
- Budget of Gram Panchayat. 39. (1) Every Gram Panchayat shall, at such time and in such manner as may be prescribed, prepare in each year a budget of its estimated receipts and disbursements for the following year and shall submit the budget to the State Government for approval through the Zilla Panchayat of the district concerned.
- (2) No expenditure shall be incurred unless the budget is approved by the State Government.
- Supplementary Budget. 40. A Gram Panchayat may prepare in each year supplementary estimate providing for any modification of its budget and submit it to the State Government for approval through the Zilla Panchayat of the district concerned within such time and in such manner as may be prescribed.
- Accounts. 41. A gram Panchayat shall keep such accounts in such manner as may be prescribed.

CHAPTER V

Constitution of Zilla Panchayat

- Zilla Panchayat and its constitution. 42. (1) For every district the State Government shall, by notification in the Official Gazette, constitute a Zilla Panchayat bearing the name of the district.
- (2) A Zilla Panchayat shall consist of the following members, namely :—
- (a) Sabhapatis of the Gram Panchayats within the district, ex-officio;
- (b) Chairmen of the Municipal Corporations;
- (c) Members of the Legislative Assembly of the State elected from a constituency comprising the district or any part thereof, ex-officio;
- (d) A member elected by each Bazar Committee declared as such under the provisions of the Bazar Committees Act, 1969.
- Term of Zilla Panchayat. 43. (1) The term of Zilla Panchayat, unless sooner dissolved, shall be five years from the date of its constitution :
- Provided that the term of a Zilla Panchayat which is constituted after the constitution of other Zilla Panchayats in a regular election, shall expire with the expiration of five year term of other Zilla Panchayats :

Provided further that the State Government may, where it is not possible to hold elections for the constitution of new Zilla Panchayats immediately after the expiry of the term, by notification, extend the said term for a period not exceeding six months at a time subject to a maximum period of one year or appoint any authority, person or persons to exercise and perform, subject to such conditions as may be specified in the order, the powers and functions of the Zilla Panchayats under this Act until the constitution of new Zilla Panchayats.

- (2) When a new Zilla Panchayat is thus duly constituted the old Zilla Panchayat shall stand dissolved.

Incorporation of
Zilla Panchayat

44. (1) Every Zilla Panchayat shall be a body corporate having perpetual succession and a common seal and shall by its corporate name sue and be sued.
- (2) A Zilla Panchayat shall have power to acquire, hold and dispose of property and to enter into contract:

Provided that in all cases of acquisition or disposal of immovable property, the Zilla Panchayat shall obtain the previous approval of the State Government.

Adhakshya and
Upadhakshya.

45. (1) Every Zilla Panchayat shall, at its first meeting at which a quorum is present, elect in such manner as the State Government may, by notification, specify, one of its members to be the Adhakshya and another member to be the Upadhakshya of the Zilla Panchayat:

Provided that the members referred to in clauses (b) and (c) of sub-section (2) of section 42 shall not be eligible for such election.

- (2) The Adhakshya and Upadhakshya shall, subject to the provisions of section 55 and to their continuing as members, hold office for a period of five years :

Provided that an Adhakshya or an Upadhakshya shall continue in office after the expiry of the said period until a new Adhakshya or Upadhakshya is elected and assumes office or until an authority or a person or persons is or are appointed under the second proviso to sub-section (1) of section 43.

- (3) When—

- (a) the office of the Adhakshya falls vacant by reason of death, resignation, removal or otherwise; or
- (b) the Adhakshya is, by reason of leave, illness or other cause, temporarily unable to act,

the Upadhakshya shall exercise the powers, perform the functions and discharge the duties of the Adhakshya until a new Adhakshya is elected and assumes office or until the Adhakshya resumes his duties, as the case may be.

- (4) When—

- (a) the office of the Upadhakshya falls vacant by reason of death, resignation, removal or otherwise; or
- (b) the Upadhakshya is, by reason of leave, illness or other cause, temporarily unable to act,

the Adhakshya shall exercise the powers, perform the functions and discharge the duties of the Upadhakshya until a new Upadhakshya is elected and